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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,349	09/09/2003	Phillip Lu	MS1-1579US	2125
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LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER PAUL, DISLER	
			ART UNIT 2615	PAPER NUMBER
			MAIL DATE 03/31/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,349

Applicant(s)

LU ET AL.

Examiner

DISLER PAUL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-24 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 25-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 9/9/03; 1/24/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Response to Amendment

In regard to the amended claim, please take note Takenada et al. did disclose of the limitation as disclosed in all the claim 1, wherein compressed songs are analyzed so as to determine their starting effective start positions and fade in and fade out positions so that there could be provided natural continuous reproduction of sound with no blank and boundary between each songs (fig.2,5; col.8 line 25-33,col.10 line 10-24/ also please see the below final rejection).

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7; 29-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Takenaka et al. (US 6,807,450 B1).

RE claim 1, Takenaka et al. disclose a method comprising:
receiving a request to play a first audio file and a second audio file
(fig.1, wt (16,10); col.8 line 35-50; fig.3/user may request
reproduction of compressed audio files; col.9 line 35-40); analyzing
data samples of the first audio file; wherein analyzing the data
samples of the first audio identifies a first a first effective start
position, and a fade-out position associated with the first audio file
(fig.2 (ta1,tb1); fig.3,5;col.10 line 1-15; col.8 line 25-34/audio
file is analyzed to identify silent portions with fade in and fade out
position); analyzing data samples of the second audio file (fig.2-3
(ta2), col.10 line 15-24); wherein analyzing the data samples of the
second audio file identifies a second effective start position

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associated with the second audio file ; playing the first audio file from the first effective start position; upon reaching the fade-out position associated with the first audio file and fading-out playback of the first audio file and playing the second audio file from the second effective start position (fig.2,5; col.4 line 10-25; fig.2; col. 8 line 20-33; col.14 line 5-30, col.8 line 25-34).

Re claim 2, the method as recited in claim 1 wherein the fade-out position is located a predetermined time ahead of an effective end position associated with the first audio file (fig.2 (tb1, shaded area), as effective end of file song).

Re claim 3, the method as recited in claim 1 wherein the first effective start position differs from the start of the first audio file(fig.2 wt(ta1,T); col.9 line 17-21).

Re claim 4, the method as recited in claim 1 further comprising fading-out playback of the second audio file upon reaching a fade-out position associated with the second audio file (fig.2 (tb2), fig.5; col.12 line 25-29).

Re claim 5, the method as recited in claim 1 wherein the first effective start position and the fade-out position associated with the first audio file are stored in a media library (fig.1 (6,7); col.8 line 40-50).

Re claim 6, the method as recited in claim 1 wherein the first effective start position and the fade-out position associated with the first audio file are stored in the first audio file (fig.2; col.9 line 18-30).

Re claim 7, One or more computer-readable memories containing a computer program that is executable by a processor to perform the method recited in claim 1 (see claim 1 rejection above).

Re claims 29-31 have been analyzed and rejected with respect to claims 1-2,4 respectively.

Re claim 32, the apparatus as recited in claim 29 wherein the start position associated with the first audio file, the fade-out position associated with the first audio file, and the second effective start position associated with the second audio file are retrieved from a media library (fig.1 (6-7); fig.5; col.12 line 50-55 & line 10-30).

Re claim 33, the apparatus as recited in claim 29 wherein the start position associated with the first audio file and the fade-out position associated with the first audio file are retrieved from the

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first audio file (fig.2 (T1,1st song); incorporate all the first start and fade out information).

Re claim 34 has been analyzed and rejected with respect to claim 1.

Re claim 35, One or more computer-readable media as recited in claim 34 wherein the fade-out position associated with the first audio file is calculated by subtracting a predetermined time period from an effective end position associated with the first audio file (col.8 line 20-33 wt (silent is removed at position ends)).

Re claim 36, One or more computer-readable media as recited in claim 34 wherein the one or more processors further fade-out playback of the second audio file upon reaching a fade-out position associated with the second audio file (fig.1 (4,15); fig.2).

Re claim 37, One or more computer-readable media as recited in claim 34 wherein the one or more processors further calculate effective start positions and fade-out positions associated with each audio file in the sequence of audio files (fig.2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takenaka et al. (US 6,807,450 B1).

Re claim 25, Takenaka et al. disclose of the apparatus comprising: a cross-fade parameter calculator to analyze data samples of an audio file and calculate at least one fade-out parameter associated with the audio file (fig.1 (15); col.10 line 10-16; col.9 line 55-60); a media library coupled to the cross-fade parameter calculator, the media library to store fade-out parameters associated with a plurality of audio files (fig.1 (6,7)); However, Takenake et al. is silent in regard of the specific limitation of having the cross-fader coupled to the media library, wherein the cross-fader to apply fade-out parameters during playback of audio files. However, Takenaka et al. did disclose of having audio data in which fading is being applied to (fig.5; col.12 line 10-29), thus with the above, disclosure it is inherent of the existence of the cross-fader coupled to the media library, wherein the cross-fader to apply fade-out parameters during playback of audio files.

While, Takenaka et al. disclose of the above with fade-out parameters and audio files (fig.1-2,5); However, Takenaka et al. fail to disclose of the specific wherein the fade out parameters are stored separate from the audio files. However, official notice is taken the concept of having the parameters being stored separately from the audio files is simply the designer's preference, thus it would have been obvious for one of the ordinary skill in the art to have modify Takenaka et al. by incorporating the specific wherein the fade out parameters are stored separate from the audio files for producing natural continuous audio songs.

Re claim 26, the apparatus as recited in claim 25 wherein the cross-fade parameter calculator calculates an effective start position associated with the audio file (fig.2 (ta)).

Re claim 27, the apparatus as recited in claim 25 wherein the cross-fade parameter calculator calculates an effective end position associated with the audio file (fig.2 (tb)).

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Re claim 28, the apparatus as recited in claim 25 wherein the cross-fader retrieves fade-out parameters from the media library (see claim 25 rejection explanation).

Allowable Subject Matter

5. Claims 8-24 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DP

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2615